

Department of Justice

§ 16.92

(8)(e)(4)(I). The categories of sources of the records in this system have been published in the FEDERAL REGISTER in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in this system, exemption from this provision is necessary to protect the confidentiality of the sources of criminal and other law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9) (e)(5). In the collection of information for criminal law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can often only be determined in a court of law. The restrictions of subsection (e)(5) would inhibit the ability of trained investigators, intelligence analysts, and government attorneys in exercising their judgment in reporting on information and investigations and impede the development of criminal or other intelligence necessary for effective law enforcement.

(10)(e)(8). The individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue warrants or subpoenas and could reveal investigative techniques, procedures, or evidence.

(11)(f). This subsection is inapplicable to the extent that this system is exempt from the access provisions of subsection (d).

(12)(g). Because some of the records in this system contain information which was compiled for law enforcement purposes and have been exempted from the access provisions of subsection (d), subsection (g) is inapplicable.

(s) The following system of records is exempted from 5 U.S.C. 552a(d).

Office of Special Investigations Displaced Persons Listings (JUSTICE/CRM-027).

This exemption applies to the extent that the records in this system are subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

(t) Exemption from subsection (d) is justified for the following reasons:

(1) Access to records contained in this system could inform the subject of the identity of witnesses or informants. The release of such information could present a serious impediment to effective law enforcement by endangering the physical safety of witnesses or informants; by leading to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony; or by otherwise preventing the successful completion of an investigation.

[Order No. 645-76, 41 FR 12640, Mar. 26, 1976, as amended by Order No. 659-76, 41 FR 32423, Aug. 3, 1976; Order No. 11-78, 43 FR 38386, Aug. 28, 1978; Order No. 30-79, 44 FR 54046, Sept. 18, 1979; Order Nos. 6-86, 7-86, 51 FR 15475, 15477, Apr. 24, 1986]

§ 16.92 Exemption of Land and Natural Resources Division System—limited access, as indicated.

(a) The following system of records is exempt from 5 U.S.C. 552a(c)(3) and (d):

(1) Docket Card System (JUSTICE/LDN-003).

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because that portion of the Docket Card System relating to enforcement of criminal provisions of the Refuse Act of 1899 (33 U.S.C. 407), section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403), section 5 of the Outer Continental Shelf Act (43 U.S.C. 1151 et seq.), the Clean Air Act (42 U.S.C. 1857 et seq.) and the Noise Control Act of 1972 (42 U.S.C. 4901), is being exempted from access and contest; the provisions for disclosure of accounting is not applicable.

(2) From subsection (d) because of the need to safeguard the identity of confidential informants and to facilitate the enforcement of the criminal provisions of the above statutes.

(c) The following system of records is exempt from 5 U.S.C. 552a (c)(3) and (d):

(1) Freedom of Information/Privacy Act Records System. (Justice/LDN-005).

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

(d) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c) (3) because that portion of the Freedom of Information/Privacy Act Records System that consists of investigatory materials compiled for law enforcement purposes is being exempted from access and contest; the provision for disclosure of accounting is not applicable.

(2) From subsection (d) because of the need to safeguard the identity of confidential informants and avoid interference with ongoing investigations or law enforcement activities by preventing premature disclosure of information relating to those efforts.

[Order No. 688-77, 42 FR 10000, Feb. 18, 1977]

§ 16.93 Exemption of Tax Division Systems—limited access.

(a) The following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a (j)(2) from subsections (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of 5 U.S.C. 552a:

(1) Tax Division Central Classification Cards, Index Docket Cards, and Associated Records—Criminal Tax Cases (JUSTICE/TAX-001)—Limited Access.

(2) Tax Division Special Projects Files (JUSTICE/TAX-005)—Limited Access.

These exemptions apply to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(b) The systems of records listed under paragraphs (a)(1) and (a)(2) of this section are exempted for the reasons set forth below, from the following provisions of 5 U.S.C. 552a:

(1)(c)(3). The release of the disclosure accounting, for disclosures made pursu-

ant to subsection (b) of the Act, including those permitted under the routine uses published for those systems of records, would enable the subject of an investigation of an actual or potential criminal tax case to determine whether he or she is the subject of investigation, to obtain valuable information concerning the nature of that investigation and the information obtained, and to determine the identity of witnesses or informants. Such access to investigative information would, accordingly, present a serious impediment to law enforcement. In addition, disclosure of the accounting would constitute notice to the individual of the existence of a record even though such notice requirement under subsection (f)(1) is specifically exempted for these systems of records.

(2)(c)(4). Since an exemption is being claimed for subsection (d) of the Act (Access to Records) this subsection is inapplicable to the extent that these systems of records are exempted from subsection (d).

(3) (d)(1); (d)(2); (d)(3); (d)(4). Access to the records contained in these systems would inform the subject of an actual or potential criminal tax investigation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his or her activities, and of the identity of witnesses or informants. Such access would, accordingly, provide information that could enable the subject to avoid detection, apprehension and prosecution. This result, therefore, would constitute a serious impediment to effective law enforcement not only because it would prevent the successful completion of the investigation but also because it could endanger the physical safety of witnesses or informants, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(4)(e)(1). The notices for these systems of records published in the FEDERAL REGISTER, set forth the basic statutory or related authority for maintenance of these systems. However, in the course of criminal tax and